IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE NINTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE

and
THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 8957 of 2003

Between:

SYED FAJULULLAH, S/O.SYED MOHIDDIN SAHEB,
SOUDHAGAR STREET, CHILAKALURIPET,
GUNTUR DIST.

..... PETITIONER(S)

AND

1 GOVT.OF INDIA, REP.BY ITS SECRETARY,
FINANCE AND PLANNING DEPT., NEW DELHI.
2 BANK OF INDIA, REP.BY ITS ZONAL MANAGER,
WALTAIR MAIN ROAD, VISAKHAPATNAM.
3 M/S.STAR COTTON INDUSTRIES, PROP:SYED SAFIULLA,S/O.MOHIDDIN,
R/O.2-237A, C.R.CLUB ROAD, CHILAKALURIPETA.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of mandamus or any other appropriate writ, order or direction declaring the impugned notice in Re:CC A/C Star Cotton Industries dt.31-12-2002 issued by the 2nd respondent under provisions of Sec.13(2) of the Securities and Reconstruction of Financial Assets and Enforcement of Security Interest Act of 2002 as illegal, arbitrary, violative of principles of natural justice and also violative of the basic principles of rule of law and fundamental rights guaranteed under Constitution of India and set aside the same as the said provisions of Sec.13 of the Act ultra vires and unconstitutional and pass such other order or orders.

Counsel for the Petitioner:MR.K.CHIDAMBARAM

Counsel for respondent No.1: Mr A.Rajsekhar Reddy, SC for CG

Counsel for the Respondent No.2: MR.S.SURYA PRAKASA RAO

The Court made the following ORDER:

(per Hon'ble Sri Devinder Gupta, The Chief Justice)

In view of the decision of the Hon'ble Supreme Court in Transfer Case (Civil) No.92-95 of 2002, dated 8th April, 2004 [MARDIA CHEMICALS LTD v UNION OF INDIA & ORS], challenge to the provisions of the Securitisation And Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 is not tenable and for that reason relief prayed for in this writ petition cannot be granted. Writ petition is, therefore, dismissed.

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DEVINDER GUPTA, CJ

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G.ROHINI, J

July 9, 2004.

nmr

ASSISTANT REGISTRAR

// true copy //

SECTION OFFICER

To

1 Secretary, GOVT.OF INDIA,

FINANCE AND PLANNING DEPT, NEW DELHI.

2 Zonal Manager, BANK OF INDIA,
WALTAIR MAIN ROAD, VISAKHAPATNAM.

3 2 CD copies.